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Federal Communications Commission
Washington, D.C. 20554

REFERENCE ROOM

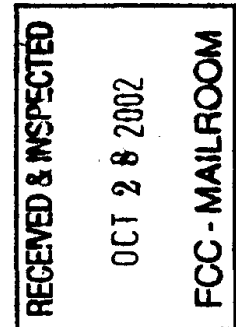
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Re: Maximization Applications of
WPXM-DT, Miami, Florida and
WXEL-DT, Palm Beach, Florida
File Nos. BPCDT-19991020AAC
And BPEDT-20000403AAT
Facility ID 48608 and 61084

MM Docket No. 00-125
RM-9908

Dear Counsel:

By Public Notice released March 1, 2002, the Commission identified the above-referenced maximization applications of Paxson Communications License Company and Barry Telecommunications, Inc., for station WPXM-DT, Miami, Florida and noncommercial educational station WXEL-DT, Palm Beach, Florida, respectively, as mutually exclusive. In addition, on April 20, 1998, Paxson filed a petition for rulemaking which is mutually exclusive with NBC Stations Management, Inc.'s proposal to amend the Table of Allotments to substitute channel 31 for channel 6 as the digital channel allotment for station WTVJ-DT, Miami, Florida in the above-referenced rulemaking proceeding.

On May 30, 2002, the parties filed a Joint Request for Approval and Settlement Agreement with the Commission, proposing a settlement which would allow the three DTV stations to be placed into

operation. The initial settlement did not propose any modifications to the proposed facilities. Instead, the parties agreed to accept levels of interference in excess of that otherwise permitted pursuant to Section 73.623(g) of the Commission's rules, which permits DTV stations to agree to accept interference in excess of that permitted in Section 73.622. The staff, however, informed the parties that, because of the magnitude of the additional interference and the signal degradation which would result, it could not conclude that grant of the applications would be consistent with the public interest. Accordingly, on September 18, 2002, the parties amended the settlement agreement to reflect the filing of minor amendments to their applications by Paxson and Barry.

We have reviewed the settlement agreement and applications, as amended, and conclude that grant would serve the public interest. Barry's proposed facility, as amended, now complies with the *de minimis* interference requirements in Section 73.623(c) with respect to all relevant stations. Paxson's amended proposed facility reduces the amount of additional interference received by WXEL-DT to a level consistent with the cumulative interference cap in Section 73.623(c), which provides that a proposed modification application may not propose to cause any additional interference to a station which already experiences interference to 10 percent or more of its population, or to increase the interference to more than 10 percent of any station's population. Barry consents to receive this interference, and further states that almost all of the area in which this interference is predicted to occur lies well outside both WXEL(TV)'s present Grade B service area and the West Palm Beach-Ft. Pierce DMA. The parties also assert that substantial public interest benefits which the settlement would create more than offset any concerns about increased levels of interference, in that: (1) grant of the settlement would facilitate the overall implementation of digital television by allowing three DTV stations -- including NBC owned-and-operated WTVJ-DT, one of several top-30 market stations affiliated with major networks that were required to have been constructed by November 1, 1999 -- to be placed into operation, and would also result in noncommercial educational station WXEL-DT receiving substantial funding for construction of its DTV facilities; (2) grant of Barry's application will expand programming service to some 1,500,000 new viewers; and (3) grant of NBC's requested channel change will result in an overall reduction in interference to stations WFLX, channel 29, West Palm Beach and WGPU, channel 30, Fort Meyers, and reduce NBC's dependency on translator stations, thus improving spectrum efficiency in the Miami area.

Having concluded that the public interest would be served, the Joint Request for Approval and Settlement Agreement filed on behalf of Barry Telecommunications, Inc., Paxson Communications License Company, LLC, and NBC Stations Management, Inc. IS HEREBY GRANTED; the above-referenced applications (File Nos. BPCDT-19991020ACC and BPEDT-20000403AAT) ARE HEREBY GRANTED; and the petition for rulemaking filed by Paxson on April 20, 1998 IS HEREBY DISMISSED. A separate *Report and Order* in MM Docket No. 00-125, amending the DTV Table of Allotments to substitute channel 31 for channel 6 at Miami, Florida, will be released shortly.

Sincerely,



Clay C. Pendarvis
Associate Chief
Video Division
Media Bureau